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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,706	08/22/2001	Satoshi Osuga	040894-5698	6235

9629 7590 04/09/2003

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

EXAMINER

PICKETT, JOHN G

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 04/09/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.



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N.K

Office Action Summary	Application N .		Applicant(s)	
	09/933,706		OSUGA ET AL.	
	Examiner		Art Unit	
	Gregory Pickett		3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 August 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>3</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

2. Figures 7-9 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following minor informalities: Page 2, lines 8-9, "in an superposed manner" should be "in a superposed manner". In the abstract, line 7, "when a plural sheets" should be "when plural sheets". In the claims, claim 1, line 8, "an lower end" should be "a lower end".

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3, 4, 6, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Baum et al (US 3,212,632).

Regarding claim 1, Baum et al discloses stick-type connected nails (10) with a plurality of nails (12) arranged in a parallel and an equidistant manner (as shown, Figure 1), with connecting bands (18) glued to a shaft portion (16) of nails (12) at an upper end and a lower end (as shown, Figure 1).

As to claim 3, connecting bands (18) are made of resin (Col. 3, ll. 43-45).

As to claim 4, connecting bands (18) are provided on both sides (22) of shaft portions (16) of nails (12) at both the upper end and lower end of the shaft portions (as shown, Figures 2 and 3).

Regarding claims 6 and 7, Baum et al discloses stick-type connected nails (80) with a plurality of nails (12) arranged in a parallel and an equidistant manner (as shown, Figures 9 and 10), with connecting bands (82, 84) glued to a shaft portion (16) of nails (12) at an upper end and a lower end (as shown, Figures 9 and 10). Referring to Figure 9 and numbering nails (12) from left to right as numbers 1-8, nails 1, 3, 5, and 7 are arranged as claimed by the applicant in claim 6, and nails 2, 4, 6, and 8 are arranged as claimed by the applicant in claim 7.

5. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Gmeiner (DE 296 17 764 U1).

Regarding claim 1, Gmeiner discloses stick-type connected nails (1) with a plurality of nails (3) arranged in a parallel and an equidistant manner (as shown, Figure 1), with connecting bands (2) glued to a shaft portion (9) of nails (3) at an upper end and a lower end (as shown, Figure 1).

As to claims 2 and 3, Gmeiner discloses connecting bands (2) made of paper or plastic resin (Page 2).

As to claim 4, Gmeiner discloses connecting bands (2) disposed on both sides of shaft portions (9) of nails (3) at both the upper end and lower end of the shaft portions (as shown, Figure 1, and described, Page 2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 1 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Signode Corporation (EP 0 053 828 A1) in view of Baum et al.

Regarding claim 1, Signode discloses stick-type connected nails (Figure 13B) with a plurality of nails (19) arranged in a parallel and an equidistant manner (as shown, Figure 13B), with connecting bands (22, 302) connected to a shaft portion of nails (19) at an upper end and a lower end (as shown, Figure 13B). Signode meets all limitations claimed by the applicant except:

Signode does not disclose connecting bands (22, 302) glued to nails (19).

Baum et al discloses connecting bands (18) glued to nails (12). It would have been obvious to one of ordinary skill in the art at the time the invention was made to glue the connecting bands of Signode to the nails as taught by Baum et al to limit movement of the nails with respect to the connecting bands during handling and transport.

As to claim 5, Signode discloses connecting band (22) on the upper end of the shaft portion of nails (19) provided on both sides of the nails, and connecting band (302) on the lower end of the shaft portion of nails (19) provided on one side of the nails.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hillier, Shelton et al, and Langas et al disclose stick type connecting nails with connecting bands on the upper and lower end of the nails.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory Pickett whose telephone number is 703-305-8321. The examiner can normally be reached on Mon-Fri, 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 703-308-2672. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3579 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

APP
Gregory Pickett
Examiner
April 3, 2003


Mickey Yu
Supervisory Patent Examiner
Group 3700